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THE DECLARATION ON THE STRENGTHENING
OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Fifty-first year

Letter dated 25 November 1996 from the Chargé d'affaires a.i.
of the Permanent Mission of Croatia to the United Nations
addressed to the Secretary-General

I have the honour to transmit herewith an aide-mémoire from my Government concerning the Prevlaka peninsula in Croatia (see annex).

May I ask for your kind assistance in circulating the present letter and its annex as a document of the General Assembly, under agenda item 81, and of the Security Council.

(Signed) Ambassador Vladimir DROBNJAK
Chargé d'affaires, a.i.

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Annex

Aide-mémoire of the Republic of Croatia concerning Prevlaka, dated 25 November 1996

1. A letter from the Chargé d'affaires of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General of the United Nations, and an aide-mémoire concerning Prevlaka, were distributed as a document of the fifty-first session of the General Assembly under agenda item 81 (Review of the Implementation of the Declaration on the Strengthening of International Security), and of the Security Council (A/51/563-S/1996/864 of 14 November 1996). In a lengthy aide-mémoire the Federal Republic of Yugoslavia attempts to present a case that a part of the Prevlaka peninsula in Croatia should belong to the Federal Republic of Yugoslavia.

2. Unfortunately, the claim by the Federal Republic of Yugoslavia to a part of the territory of its neighbouring State, the Republic of Croatia, does not contribute to the "strengthening of international security". The Croatian Government will not elaborate on this counterproductive document by the Federal Republic of Yugoslavia. Instead, it will only highlight some basic facts relevant under international law concerning the Prevlaka peninsula, which is an integral part of Croatia.

3. The Prevlaka peninsula has uninterruptedly been part of Croatia since the fifteenth century through various forms of Croatia's statehood, including during the period of the Socialist Federal Republic of Yugoslavia. After gaining independence on 8 October 1991, Croatia's boundaries within the former Yugoslavia, including the boundary with the Republic of Montenegro, became "frontiers protected by international law" based on the principle of international law uti possidetis. This was explicitly determined by the Arbitration Commission of the Conference on Yugoslavia (para. 2, opinion No. 3, of 11 January 1992).

4. From the moment of Croatia's independence, first Montenegro, and then the Federal Republic of Yugoslavia, formed by Montenegro and Serbia, attempted by various means, peacefully as well as by force, to change the frontier at the southernmost end of Croatia - the Prevlaka peninsula.

5. The "Conclusions", adopted by the Parliament of Montenegro on 7 October 1991, one day prior to Croatia's independence, was the first in a series of documents in which the changing of the frontier with Croatia was proposed. Point 4 of the "Conclusions" required the delegation of Montenegro to "raise the issue of the borders between the Republic of Montenegro and the Republic of Croatia" at the Conference on Yugoslavia. This frontier was described as the "existing administrative border between the Republics of Montenegro and Croatia" and the reason stated for "raising the issue of borders" were "historic, geographic and other interests arising from the military significance and strategic position of Prevlaka and the entire Boka Kotorska Bay".

Along the lines of these "Conclusions", on 8 October 1991, the Parliament of Montenegro adopted the "Initiative for a negotiated determination of the sea and land border between the Republics of Montenegro and the Republic of

Croatia", where the argument for commencing border negotiations was that "the existing border in the area of the Prevlaka peninsula is a hindrance to the establishment of a just and rational boundary in coast waters and continental shelf, and therefore ... minor corrections are necessary" (Point 2). In the "explanation of the Initiative", which was sent to the Croatian Parliament on 12 October 1991, it is reiterated that "It is necessary to commence negotiations on a minor correction of the land border in the area of Prevlaka and Vitaljine ...".

The President of the Croatian Parliament, in his answer of 15 October 1991, rejected the idea of negotiating the frontier with Montenegro on the grounds that this issue, as requested by Montenegro, was already discussed within the Conference on Yugoslavia. The Arbitration Commission of the Conference declared its position on the matter in its Opinion No. 3 of 11 January 1992, based on a nearly 200-year-old international practice in respect of retaining of frontiers in cases involving the independence of States - the principle of uti possidetis.

6. The aggression by the Yugoslav army and the paramilitary troops from Serbia and Montenegro, which ensued in 1991 against the southernmost areas of Croatia, resulted in the occupation of the wider Dubrovnik area including the Prevlaka peninsula. This state of affairs was resolved through the Joint Declaration signed between the Presidents of the Republic of Croatia and the Federal Republic of Yugoslavia on 30 September 1992 in Geneva. It was decided that the Yugoslav army would leave Prevlaka, with security in the area to be resolved through demilitarization and through deployment of United Nations monitors. It was also agreed that the overall security for the Boka Kotorska and Dubrovnik areas was to be achieved through subsequent negotiations.

In accordance with Security Council resolution 779 (1992) of 6 October 1992, the United Nations Protection Force (UNPROFOR) assumed responsibility for supervising the complete withdrawal of the Yugoslav army from Croatia and the demilitarization of parts of the Prevlaka peninsula following the withdrawal of the Yugoslav army.

Pursuant to these documents, the Yugoslav army withdrew from this occupied area in the south of Croatia. The United Nations observers are still supervising the demilitarization of Prevlaka in accordance with further relevant Security Council resolutions. Resolution 1066 (1996) of 15 July 1996 extended the mission of the United Nations Military Observers on Prevlaka (UNMOP) until 15 January 1997.

The Joint Declaration of 30 September 1992, as well as all relevant Security Council resolutions, do not in any way question Croatia's sovereignty over the Prevlaka peninsula. Moreover, in its resolution 1066 (1996) on Prevlaka, the Security Council "reaffirmed once again its commitment to the independence, sovereignty and territorial integrity of the Republic of Croatia". Croatia agreed to have this part of its territory demilitarized in the interests of restoration of peace and security in the area.

The fact that Prevlaka, although demilitarized, is a part of the territory of Croatia is also supported by the border line entered into the map signed by the highest military and civil representatives of the Federal Republic of Yugoslavia in the demilitarization agreement.

7. In Dayton, in November 1995, the delegation of the Federal Republic of Yugoslavia presented to the delegation of Croatia a plan for a three-party exchange of territories, under which, inter alia, the Federal Republic of Yugoslavia would acquire parts of the Prevlaka peninsula and Croatia would receive parts of the Dubrovnik hinterland in Bosnia and Herzegovina. This offer, which was rejected by the delegation of Croatia, also proves that the Prevlaka peninsula in Croatia is indisputably Croatian territory from the viewpoint of the Federal Republic of Yugoslavia.

8. Finally, by the "Agreement on the Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia" of 23 August 1996, the two States agreed to respect each other within their international frontiers (art. 1). This means that, on the basis of the uti possidetis principle, they respect the borders they had as former republics within the dissolved Socialist Federal Republic of Yugoslavia at the moment of their respective establishment as independent States; the Republic of Croatia on 8 October 1991, and the Federal Republic of Yugoslavia on 27 April 1992.

In article 2 of the Agreement the two States confirmed that they "... shall carry out the regulation of their frontiers and the delimitation through mutual agreement ...". Since the frontiers on land have long been established they are only to be "regulated" (marked), while "delimitation" is to be carried out at sea, because the sea boundaries between the former Yugoslav republics were never determined. Once marked on land, delimitation of sea boundaries shall be carried out in accordance with relevant rules of international law.

In the Agreement, the Prevlaka peninsula is dealt with in a separate article, detached from the territorial clauses - as a security issue in the domain of "security of the part of the territory of the Republic of Croatia in the area of Dubrovnik and the part of territory of the Federal Republic of Yugoslavia in the area of Boka Kotorska Bay". The Contracting Parties undertook to settle this issue through mutual negotiations in keeping with the spirit of the Charter of the United Nations and the principle of good-neighbourliness, and agreed to respect the monitoring regime established by the United Nations until a mutual agreement is reached.

Thus, Croatia and the Federal Republic of Yugoslavia have arrived at an arrangement for satisfying the security needs of the Boka Kotorska and Dubrovnik areas centred on a part of the Prevlaka peninsula. The security of the aforementioned is subject to further negotiations. However, the Agreement does not mention Prevlaka as a territorial issue, nor, bona fide, can there be any dispute about this.

9. Croatia has always been prepared to settle all disputes with its neighbours peacefully. However, as before, Croatia shall not cede any part of its territory as a price for peaceful settlement of outstanding issues, but rather, it shall defend its territory by all means available to all States equally under international law. In this regard, Croatia is fully confident that it has the support of the entire international community; support based on the principal provisions of the Charter of the United Nations.